



November 21, 2007

The Honorable Carlos Gutierrez  
United States Secretary of Commerce  
United States Department of Commerce  
1401 Constitution Ave., NW  
Washington, DC 20230

**Re: Implementation of the Telecommunications Act of 1996-Telecommunications  
Carriers' Use of Customer Proprietary Network Information and other  
Customer Information, CC Docket No. 96-115**

Dear Mr. Secretary:

The United States Telecom Association (USTelecom) is the premier trade association representing a large and diverse group of service providers and suppliers in the telecom industry. The association includes the very largest telecom companies, such as AT&T and Verizon, as well as companies with only a few hundred customers. On behalf of its members, USTelecom respectfully requests the Department of Commerce to work with the Federal Communications Commission (the Commission) to limit the scope of new rules which would unnecessarily restrict the foreign storage of and foreign access to customer proprietary network information (CPNI). Before adopting broad new rules that would adversely affect the international competitiveness of U.S.-based carriers, USTelecom believes the Commission should exclude out-of-scope areas such as business CPNI and temporary storage of CPNI.

As a threshold matter, US Telecom agrees with other parties who have asked the Commission to refresh the record.<sup>1</sup> The proceeding is more than 10 years old, and it has been more than 5 years since the Commission last requested comments. In that time the global telecommunications market has changed dramatically. Globalization has resulted in the opening of new foreign markets, and customer network management services are a key component to doing business in the markets. In this new environment the Commission needs further facts and comment in order to determine whether more regulation of CPNI is required and will contribute to "balance in a global communications environment"<sup>2</sup> as advanced by the FBI.

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<sup>1</sup> Verizon Communications, Inc. Ex Parte Letter (Aug. 22, 2007); AT&T Ex Parte Letter (May 17, 2007); Qwest Ex Parte Letter (Sep. 10, 2007); Comptel Ex Parte Letter (Jun. 22, 2007); Sprint Nextel Ex Parte Letter (June. 18, 2007); Covad Communications Ex Parte Letter (May 24, 2007)

<sup>2</sup> FBI reply comments at p 2

### **Proposed New Rules Would Negatively Impact the Competitiveness of U.S. Based Providers**

The rules as proposed by the Federal Bureau of Investigation<sup>3</sup> in 2002 do not sufficiently account for the impact on the competitive position of American companies in the international market for telecommunications services. As presented in previous filings with the Commission in this docket, US Telecom would like to re-emphasize the importance of flexibility in the methods of access and storage of CPNI to our member service providers and their customers.<sup>4</sup> A blanket requirement from the Commission for domestic storage of CPNI, combined with additional constraints on foreign access would be a significant economic burden on U.S. based telecom service providers, a burden which would be passed on to consumers in the form of higher rates.

Valid national security, law enforcement and privacy goals as stated by the FBI are not served by saddling domestic service providers with additional transport and storage expenses. The proposed restrictions on access from outside the U.S. do not acknowledge a practical need for access to CPNI across the network. US Telecom represents both large and small service providers that operate in a global marketplace. Multinational corporations and increasingly small business customers demand the convenience and security afforded by a single provider managing all of their international communications needs. In this environment, the proposed rules would only serve to degrade the competitive position of American companies relative to foreign competitors.

### **The Commission Should Exempt Certain Types of CPNI**

USTelecom believes the Commission should narrow the scope of the proposed rules so as to exempt business customer CPNI and temporary storage of CPNI. In particular, US Telecom supports the Verizon request to limit the scope of CPNI under an FCC order to individual domestic consumer subscribers and to specifically exclude business customers.<sup>5</sup> The Commission must not handicap domestic providers in an intensely competitive international market for telecommunications services. Retaining the option to outsource IT and other key operational functions may enable U.S.-based service providers to better compete globally. The FBI has acknowledged that there is a limited rationale for restricting foreign storage of multinational corporations' CPNI because they "already expose a substantial amount of their international communications abroad; foreign-based (foreign-rendered) services and networks would already capture a significant amount of CPNI-like information."<sup>6</sup>

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<sup>3</sup> Reply Comments of the U.S. Department of Justice and the Federal Bureau of Investigation ("FBI Reply Comments") (Nov. 19, 2002)

<sup>4</sup> United States Telecom Association Ex Parte Letter (May 2, 2007)

<sup>5</sup> Verizon Communications, Inc. Ex Parte Letter (Aug. 22, 2007) at p 4

<sup>6</sup> FBI reply comments at n 34

USTelecom also supports the Verizon request to exclude foreign access to CPNI and temporary foreign storage of CPNI from the scope of an FCC order.<sup>7</sup> We concur that the Communications Act specifically precludes regulation of CPNI in the context of service delivery. Section 222 permits carriers to use CPNI “to initiate, render, bill and collect for telecommunications services.” These internal operational uses – and storage – of CPNI should remain protected in both the context of international as well as domestic operations.

### **Conclusion**

While not a substitute for refreshing the record, USTelecom urges the Department of Commerce to inform the Commission of the significant changes in the international telecommunications market over the past ten years. Such changes make clear the need for the Department of Commerce to work with the Commission to ensure that any restrictions on foreign storage of and access to CPNI do not harm the competitive market position of U.S.-based service providers.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn T. Reynolds". The signature is fluid and cursive, with the first name "Glenn" and last name "Reynolds" clearly distinguishable.

Glenn T. Reynolds  
Vice President, Policy

cc: Meredith Atwell-Baker, Acting Assistant Secretary for Communications and Information  
Michelle O'Neill, Deputy Under Secretary for International Trade

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<sup>7</sup> Verizon Communications, Inc. Ex Parte Letter (Aug. 22, 2007) at p 5